

HARASSMENT AND DISCRIMINATION OF STUDENTS (NEW)

Loudoun County Public Schools (LCPS) is committed to maintaining an equitable, safe and inclusive learning environment for students free from all forms of harassment and discrimination. The purpose of this policy is to establish a prompt and equitable method for resolving such complaints except that particularized grievance procedures are provided below for disability discrimination and for sexual harassment as required by federal regulations. For provisions regarding harassment, discrimination or retaliation filed by LCPS employees, see Policy 7014, Environments Free from Harassment, Discrimination and Abuse.

LCPS prohibits discrimination and harassment against any student on the basis of race, color, national origin, caste, religion, sex, pregnancy, childbirth or related medical conditions, sexual orientation, perceived sexual orientation, gender identity, marital status, disability, age, genetic information, and any other characteristic provided by law. Retaliation against anyone involved in any complaint process is a violation of LCPS policy and is prohibited.

A. Disability Discrimination. To eliminate discrimination against students on the basis of disability in any program or activity offered and operated by the school division, the Division Superintendent shall adopt regulations to address the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act including procedures for the resolution of complaints with respect to any alleged discrimination on the basis of disability: Regulation 8030-1 applies to eligible preschool, elementary, and secondary students; and Regulation 8030-2 applies to students enrolled in an Adult Education Program.

Contact Director, Diagnostic and Prevention Services who is the 504 Disability Coordinator for Students, (571) 252-1013, 21000 Education Court, Ashburn, Virginia 20148 for more information or complete the online complaint form on the LCPS webpage.

B. Title IX Sexual Harassment

1. **Title IX** of the Education Amendments Act of 1972 is a federal law that states: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." The U.S. Department of Education has published implementing regulations which include, but are not limited to, the need for the designation of a Title IX Coordinator and for a specific complaint and grievance procedure meeting federal requirements regarding sexual harassment.

HARASSMENT AND DISCRIMINATION OF STUDENTS (NEW)

Sex discrimination includes sexual harassment which means conduct on the basis of sex that satisfies one or more of the following:

- a. An LCPS employee conditioning the provision of an aid, benefit, or service of LCPS on an individual's participation in unwelcome sexual conduct;
- b. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to LCPS's education program or activity; or
- c. "Sexual assault", "dating violence", "domestic violence" or "stalking" as defined in federal law and in Regulation 8030-3.

2. Title IX Coordinator. The LCPS Title IX Coordinator listed below is authorized and directed to coordinate LCPS efforts to comply with this law and regulations and will oversee the administration of this initiative. Notice of the Title IX Coordinator contact information shall be provided through the Student Rights and Responsibilities Handbook, the Employee Handbook and by the LCPS Webpage. The name, title, office address, email address and telephone number shall also be provided in Regulation 8030-3.

Title IX Coordinator: Dr. Scott Ziegler
Assistant Superintendent for Human Resources and Talent Development
21000 Education Court
Ashburn, Virginia 20148
(571) 252-1100
Scott.Ziegler@lcps.org

3. Reporting Procedures. Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.

4. Student Report. Any student or parent(s) or guardian who believes that they or another student has experienced prohibited conduct should immediately report

HARASSMENT AND DISCRIMINATION OF STUDENTS (NEW)

the alleged acts to an adult staff member (e.g. teacher, school counselor, athletic director, coach, bus driver or other school administrator) who shall immediately notify the principal. The principal or assistant principal will document the initial reporting of the allegations immediately upon receipt. The Title IX Coordinator will be promptly notified of any allegations of sexual harassment.

5. Employee Obligation to Report. Any LCPS employee who suspects or receives notice that a student, group of students or employee(s) has or may have experienced prohibited conduct shall immediately notify the principal or their supervisor and take any other steps required by this policy. A failure to immediately report may impair LCPS' ability to investigate and address the prohibited conduct of sexual harassment.

6. Alternative Reporting Procedures. A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against a Title IX Coordinator or ADA/Section 504 Coordinator, may be directed to the Office of School Administration.

7. Administration Report. The principal will notify their level director and the Director of School Administration of prohibited conduct immediately after the alleged act or knowledge of the alleged act. All reports of sexual harassment shall be communicated to the Title IX Coordinator upon receiving a report or information of the potential allegations.

8. Notice to Parents or Guardians. The school administration shall also promptly notify the parents or guardians of any student alleged to have experienced sexual harassment, under this Policy or under Policy 7014, Environments Free from Harassment, Discrimination and Abuse, if the complaint is about a teacher or other adult in the educational environment.

9. The Superintendent shall issue implementing regulations for this Policy and shall establish Title IX compliant training requirements for the Title IX Coordinator, investigators, the decisionmaker and any person designated to facilitate an informal resolution process, the filing of a formal complaint, the investigation and dismissal process, a prompt and equitable grievance process concluding in a written determination of responsibility, a list available disciplinary sanctions, remedies and supportive measures, and an explanation of the appeal process and recordkeeping requirements as is required by federal regulations.

HARASSMENT AND DISCRIMINATION OF STUDENTS (NEW)

10. Standard for Determining Responsibility for Sexual Harassment. The standard of evidence for determining responsibility at the end of the grievance process shall be the preponderance of the evidence standard.

11. This same standard shall be applied equally to all formal complaints of sexual harassment against students as well complaints against employees under this Policy or under Policy 7014, Environments Free from Harassment, Discrimination and Abuse. Accused persons are presumed not responsible for alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process in accordance with federal regulations.

12. Retaliation for Reporting or Participating in Sexual Harassment Investigation. No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this Policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.

13. Emergency Removal Due to Sexual Harassment Allegations

- a. Interim Action. If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the school administration shall promptly take interim action directed toward maintaining a safe and secure learning environment for all students.
- b. Nothing in this Policy precludes removing an accused person from the education program or activity on an emergency basis, provided that the Principal undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the individual with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.
- c. An accused employee may be placed on administrative leave pending the outcome of the grievance procedure in accordance with LCPS policies and practices in coordination with the Department of Human Resources and Talent Development.

HARASSMENT AND DISCRIMINATION OF STUDENTS (NEW)

C. All Other Forms of Discrimination Not Involving Disability or Sexual Harassment

1. The process for reporting all other complaints and notifying parents shall be the same as outlined above for sexual harassment as well as for sexual harassment allegations not meeting the definition of that term above.

2. The Principal, however, upon receipt of allegations or information, will investigate such prohibited conduct involving student-on-student complaints, notify their supervisor, timely notify parents and the Office of School Administration and take appropriate disciplinary, restorative justice or other appropriate actions as necessary. Principals shall take no disciplinary actions regarding matters involving sexual harassment until the Title IX Coordinator determines that the allegations do not meet the definition above for Title IX sexual harassment.

3. In examining the initial report, the Principal will determine whether the allegations, if proven, would constitute prohibited discriminatory conduct of any kind.

4. If appropriate, and regardless of the potentially criminal nature of the conduct, the Principal shall promptly take interim action directed toward maintaining a safe and secure learning environment for all students and notify the Office of School Administration.

5. If the allegations are against an LCPS employee, the Principal shall coordinate and cooperate with the Department of Human Resources and Talent Development under Policy 7014.

6. Notification of Outcome. Notification of the outcome of the investigation shall be provided to all parties in compliance with Family Educational Rights and Privacy Act (FERPA).

7. Examples of Other Discriminatory Prohibited Conduct

- a. Prohibited discrimination includes discrimination based on race, color, national origin, ethnicity and other classifications not covered above that are prohibited by law.
- b. These types of discrimination or harassment may include but are not limited to the following:
 - i. Graffiti or printed material containing offensive or derogatory language.

HARASSMENT AND DISCRIMINATION OF STUDENTS (NEW)

- ii. Malicious name calling, racial insults, hate speech, slurs, or rumors, threatening, intimidating or humiliating conduct and defamatory statements.
- iii. Physical acts of aggression or assault against a person or their property, dating violence.
- iv. Written or graphic material, including social media communication, which is posted or circulated, to include but not limited to, material which may be offensive or defaming, slanderous or libelous, intimidating or threatening to individuals.

D. Law Enforcement Involvement Regarding Any Investigation

1. Criminal Investigations. If a law enforcement or regulatory agency notifies LCPS that a criminal or regulatory investigation has been initiated, the Safety and Security designee shall confer with the agency to determine if the division's investigation would impede the criminal or regulatory investigation. The school division shall proceed with its investigation only to the extent that it does not impede the ongoing criminal or regulatory investigation. After the law enforcement or regulatory agency has finished gathering its evidence, the school administration shall promptly resume its investigation.

2. Concluding Investigations. Absent a request by a law enforcement or regulatory agency for LCPS to delay its investigation, the investigation shall be completed within 5 working days from the date of the report; however, the principal or assistant principal may take an additional 5 days if necessary, to complete a thorough investigation. The principal or assistant principal shall prepare a written report of the investigation. The report shall include a determination of whether prohibited conduct occurred. The report shall be filed at the school and a copy is to be submitted to the Office of School Administration.

E. Confidentiality. The confidentiality of all interviewees will be adhered to, provided that it does not interfere with the investigation or with the ability to take corrective action and provided it is not inconsistent with the implementing regulations for Title IX Sexual Harassment. The principal or assistant principal shall inform interviewees of confidentiality to the extent permitted by law, policy and regulations.

F. Falsification. Students who knowingly make false charges of harassment or discrimination in the school environment are subject to disciplinary action. Reasonable

HARASSMENT AND DISCRIMINATION OF STUDENTS (NEW)

good faith allegations of harassment, discrimination or retaliation will not result in discipline if the allegations are later determined to be untrue or not proven.

G. Disciplinary Action. Any student found to have violated this Policy will be subject to appropriate disciplinary action. Student disciplinary action will be in accordance with the provisions of School Board policies, including but not limited to, Policy 8210 and Policy 8220. No disciplinary action will be taken in cases under Title IX Sexual Harassment of this Policy until the decision maker makes a decision following the grievance process.

Adopted:

Cross Ref: Policy 7014, Environments Free from Harassment, Discrimination, and Abuse, Policy 8210, Introduction to Student Discipline, Policy 8220 Student Suspension from School, Regulation 8030-1 and Regulation 8030-2, Regulation 8030-3
Legal Ref: Code of Virginia §§ 22.1-78, and 2.2-3900 et seq.; LCPS; 29 U.S.C. 794; 34 C.F.R. Part 104 and 106; Title II of the Americans with Disabilities Act of 1990